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BABYBUS CO., LTD and BABYBUS

(FUJIAN) NETWORK TECHNOLOGY

CO., LTD

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

MOONBUG ENTERTAINMENT LIMITED
and TREASURE STUDIO, INC.,

Plaintiffs,

v.

BABYBUS CO., LTD and BABYBUS
(FUJIAN) NETWORK TECHNOLOGY CO.,
LTD,

Defendants.

CASE NO. 3:21-CV-06536-EMC

**BABYBUS CO., LTD'S AND BABYBUS
(FUJIAN) NETWORK TECHNOLOGY
CO., LTD'S ANSWER TO
SUPPLEMENTAL AMENDED
COMPLAINT AND JURY DEMAND**

Judge: Honorable Edward M. Chen

Courtroom: 5, 17th Floor

BABYBUS' ANSWER

Defendants BabyBus Co., Ltd. and BabyBus (Fujian) Network Technology Co., Ltd. (collectively “BabyBus”), hereby submit this Answer and Affirmative Defenses to the Supplemental Amended Complaint of Plaintiffs Moonbug Entertainment Limited and Treasures Studio, Inc. (collectively “Plaintiffs” or “Moonbug”). To the extent any of the headings of the Supplemental Amended Complaint require a response, BabyBus denies such allegations. BabyBus denies each and every allegation in the Supplemental Amended Complaint not expressly admitted below.

1. BabyBus admits that, in the interests of judicial economy and the conservation of the parties’ resources, BabyBus did not contest partial summary judgment as to six specific videos (BB_00012972, BB_00012974, BB_00013057, BB_00012958, BB_00012948, and BB_00012978) for which Moonbug alleged “Frame-by-Frame” registrations; *i.e.*, (1) Boo Boo Song (Moonbug U.S. Copyright Reg. No. PA002181622), (2) Yes Yes Vegetables (Moonbug U.S. Copyright Reg. Nos. PA0002159137 and PA0002149483), (3) Colors Song (Moonbug U.S. Copyright Reg. No. PA0021463525), (4) Car Wash Song (Moonbug U.S. Copyright Reg. No. PA002191424), (5) Bath Song (Moonbug U.S. Copyright Reg. No. PA002146326), and (6) Yes Yes Playground (Moonbug U.S. Copyright Reg. No. PA002145951) (hereinafter, the six BabyBus videos are collectively referred to as the “Six Conceded Videos” and the seven CoComelon copyrights collectively referred to as the “Seven Conceded Copyrights”). Paragraph 1 also contains legal conclusions and arguments to which no response is required. To the extent a response is required, BabyBus denies the remaining allegations in this paragraph.

2. BabyBus currently lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 2, and therefore denies them.

3. BabyBus admits it offers YouTube channels under its “Super JoJo” brand. BabyBus admits that it did not contest partial summary judgment on the Six Conceded Videos with respect to the Seven Conceded Copyrights. BabyBus denies all other allegations of infringement, including with regard to any copyrights outside of the Seven Conceded Copyrights. Further, to the extent the allegations in paragraph 3 purport to describe or quote one or more documents or webpages, BabyBus asserts that those documents or webpages are the best source of their full content and

1 context. BabyBus denies the allegations to the extent they do not accurately represent the
2 documents' or webpages' full content and context. Paragraph 3 also contains legal conclusions and
3 arguments to which no response is required; to the extent a response is required, BabyBus denies
4 the allegations in this paragraph. Except as expressly admitted, BabyBus denies the remaining
5 allegations in paragraph 3.

6 4. BabyBus admits that it did not contest partial summary judgment on the Six
7 Conceded Videos for infringement of the Seven Conceded Copyrights. BabyBus denies all other
8 allegations of infringement, including with regard to any copyrights outside of the Seven Conceded
9 Copyrights. BabyBus admits that as of August 24, 2021, Plaintiffs had submitted notices to
10 YouTube that alleged BabyBus' videos infringed one or more copyrights; BabyBus denies those
11 notices were accurate when they were submitted to BabyBus' knowledge. BabyBus admits that it
12 has removed certain videos from public view on YouTube. BabyBus admits that Plaintiffs have
13 since submitted additional notices to YouTube that alleged BabyBus' videos infringe one or more
14 copyrights; BabyBus denies the allegations in those notices were accurate when they were
15 submitted, except to the extent notices were submitted concerning the Six Conceded Videos with
16 respect to the Seven Conceded Copyrights after the Court granted partial summary judgment as to
17 the Six Conceded Videos with respect to the Seven Conceded Copyrights. Paragraph 4 also contains
18 legal conclusions and arguments to which no response is required; to the extent a response is
19 required, BabyBus denies the allegations in this paragraph. Except as expressly admitted, BabyBus
20 denies the remaining allegations in paragraph 4.

21 5. Paragraph 5 contains legal conclusions and arguments to which no response is
22 required; to the extent a response is required, BabyBus denies the allegations in this paragraph.

23 6. BabyBus currently lacks knowledge or information sufficient to form a belief as to
24 the truth or falsity of the allegations contained in paragraph 6, and therefore denies them.

25 7. BabyBus currently lacks knowledge or information sufficient to form a belief as to
26 the truth or falsity of the allegations contained in paragraph 7, and therefore denies them.

27 8. BabyBus admits that BabyBus Co., Ltd. was formerly known as Fuzhou Zhiyong
28 Information Technology Co., Ltd., and has its business address at 15th Floor, Building 3, F Zone,

1 Fuzhou Software Park, No. 89, Software Avenue, Gulou District, Fuzhou, Fujian, China 350001.
2 BabyBus admits that BabyBus Co., Ltd. is the parent company of BabyBus (Fujian) Network
3 Technology Co., Ltd. BabyBus admits that, along with its affiliates, BabyBus provides digital
4 content for children through apps and platforms in 12 languages and 160 countries. BabyBus admits
5 that BabyBus and its affiliates together had, at one point, more than 99 million monthly active users
6 for all such Super JoJo and non-Super JoJo content. BabyBus admits that BabyBus Co., Ltd.
7 submitted IPO application materials to the Shenzhen Stock Exchange on June 18, 2021. BabyBus
8 further admits that on June 29, 2021, the Shenzhen Stock Exchange accepted and publicly disclosed
9 BabyBus Co., Ltd.'s prospectus. BabyBus admits that BabyBus and its affiliates together earned
10 over \$100 million in 2020. BabyBus further admits that it collected revenues derived from the
11 marketing and distribution of its Super JoJo content on the YouTube platform. BabyBus admits
12 that it did not contest partial summary judgment on the Six Conceded Videos with respect to
13 infringement of the Seven Conceded Copyrights. BabyBus otherwise denies that any of its content
14 infringes on any of Plaintiffs' copyrights. Paragraph 8 also contains legal conclusions and
15 arguments to which no response is required; to the extent a response is required, BabyBus denies
16 the allegations in this paragraph. Except as expressly admitted, BabyBus denies the remaining
17 allegations in paragraph 8.

18 9. BabyBus admits that BabyBus (Fujian) Network Technology Co., Ltd. has its
19 business address at 2nd Floor, Building 10, Hongfang, No. 1 Jingong Road, Fuzhou City, Fujian
20 Province, China 350007. BabyBus admits that BabyBus Co., Ltd. is the parent company of
21 BabyBus (Fujian) Network Technology Co., Ltd. BabyBus admits that its Super JoJo branded
22 videos are published, displayed, and advertised on YouTube. BabyBus further admits that it
23 collected revenues derived from the marketing and distribution of its Super JoJo content on the
24 YouTube platform. BabyBus admits that it did not contest partial summary judgment on the Six
25 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. BabyBus
26 otherwise denies that its Super JoJo branded videos infringe on any of Plaintiffs' alleged copyrights.
27 Paragraph 9 also contains legal conclusions and arguments to which no response is required; to the
28

1 extent a response is required, BabyBus denies the allegations in this paragraph. Except as expressly
2 admitted, BabyBus denies the remaining allegations in paragraph 9.

3 10. BabyBus admits the allegations in Paragraph 10.

4 11. BabyBus admits that the Court has personal jurisdiction over BabyBus for this
5 action. BabyBus consented to personal jurisdiction in this judicial district by submitting counter
6 notifications under Section 512(g)(3)(D) of the Copyright Act through YouTube in response to
7 Plaintiffs' false notifications of claimed infringement. BabyBus admits that it admitted in its
8 Amended Answer that BabyBus is subject to personal jurisdiction by virtue of submitting counter
9 notifications and pursuant to BabyBus' consent. BabyBus admits that Mr. Naiyong Yan is the co-
10 founder and the Head of the Video Business Department for Baby Bus Co., Ltd., and that he
11 submitted the counter notifications. BabyBus currently lacks knowledge or information sufficient
12 to form a belief as to the truth or falsity of the allegations contained in paragraph 11 regarding
13 YouTube's operations, and therefore denies them. Paragraph 11 also contains legal conclusions and
14 arguments to which no response is required. Except as expressly admitted, BabyBus denies the
15 remaining allegations in paragraph 11.

16 12. BabyBus admits the allegations in Paragraph 12.

17 13. For the purposes of the above captioned litigation, BabyBus consents to the
18 jurisdiction of this Court, and thus admits this Court has personal jurisdiction pursuant to BabyBus'
19 consent. BabyBus admits that it makes its Super JoJo branded videos available through YouTube's
20 platform, and that it has entered into an agreement with YouTube to use that platform; but BabyBus
21 denies any connection between YouTube and the Court's personal jurisdiction over BabyBus.
22 BabyBus further admits that its Super JoJo branded videos are published, displayed, and advertised
23 on YouTube. BabyBus admits that it did not contest partial summary judgment on the Six Conceded
24 Videos with respect to infringement of the Seven Conceded Copyrights. BabyBus otherwise denies
25 that its Super JoJo branded videos infringe on any of Plaintiffs' alleged copyrights. BabyBus admits
26 that it collected revenues derived from the marketing and distribution of its Super JoJo content on
27 the YouTube platform. BabyBus admits that Mr. Naiyong Yan submitted a sworn declaration in
28 support of the motion for temporary restraining order by BabyBus (Fujian) Network Technology

1 Co., Ltd. Paragraph 13 also contains legal conclusions and arguments to which no response is
2 required, and BabyBus denies the remaining allegations in Paragraph 13.

3 14. BabyBus admits that venue is proper in this district.

4 15. BabyBus admits that Civil Local Rule 3-2(c) is applicable and that assignment to any
5 division in this district is proper.

6 16. BabyBus currently lacks knowledge or information sufficient to form a belief as to
7 the truth or falsity of the allegations contained in paragraph 16, and therefore denies them.

8 17. BabyBus currently lacks knowledge or information sufficient to form a belief as to
9 the truth or falsity of the allegations contained in paragraph 17, and therefore denies them.

10 18. BabyBus currently lacks knowledge or information sufficient to form a belief as to
11 the truth or falsity of the allegations contained in paragraph 18, and therefore denies them.

12 19. BabyBus currently lacks knowledge or information sufficient to form a belief as to
13 the truth or falsity of the allegations contained in paragraph 19, and therefore denies them.

14 20. BabyBus currently lacks knowledge or information sufficient to form a belief as to
15 the truth or falsity of the allegations contained in paragraph 20, and therefore denies them.

16 21. BabyBus currently lacks knowledge or information sufficient to form a belief as to
17 the truth or falsity of the allegations contained in paragraph 21, and therefore denies them.

18 22. BabyBus admits that it did not contest partial summary judgment on the Six
19 Conceded Videos with respect to the Seven Conceded Copyrights. BabyBus otherwise denies any
20 allegations of “infringement,” or characterizations of content as “infringing,” contained in
21 Paragraph 22. BabyBus admits that it operates the Super JoJo show on multiple channels on
22 YouTube, including channels in various languages and those identified in Exhibit 1 to the
23 Complaint. BabyBus admits that Super JoJo content has appeared on YouTube and Amazon video
24 services. BabyBus denies the remaining allegations in Paragraph 22.

25 23. BabyBus admits that it did not contest partial summary judgment on the Six
26 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. Paragraph 23
27 also contains legal conclusions and arguments to which no response is required. To the extent a
28 response is required, BabyBus denies the remainder of the allegations in this paragraph.

1 24. Paragraph 24 contains legal conclusions and arguments to which no response is
2 required. To the extent a response is required, BabyBus denies the allegations in this paragraph.

3 25. BabyBus admits that, like all infants, JoJo has a large head relative to the size of his
4 body, large eyes, and teeth. BabyBus further admits that JoJo has been depicted in yellow and blue
5 clothing. BabyBus further admits that JoJo has been depicted in 3-D animation. BabyBus denies
6 that any identified, alleged similarities between JoJo and any other fictional character reach elements
7 of the characters that are protectable in copyright or constitute copyright infringement. Paragraph 25
8 also contains legal conclusions and arguments to which no response is required; to the extent a
9 response is required, BabyBus denies the remaining allegations in this paragraph, including on the
10 ground that they are vague.

11 26. BabyBus admits that JoJo has been depicted as happy, positive, eager, and curious.
12 BabyBus admits JoJo has a brother and sister with whom he sometimes plays. BabyBus admits that
13 JoJo is the youngest of the three siblings. BabyBus admits that JoJo's name is "JoJo." BabyBus
14 denies that any identified, alleged similarities between JoJo and any other fictional character reach
15 elements of the characters that are protectable in copyright or constitute copyright infringement.
16 Paragraph 26 also contains legal conclusions and arguments to which no response is required; to the
17 extent a response is required, BabyBus denies the remaining allegations in this paragraph, including
18 on the ground that they are vague.

19 27. BabyBus admits that JoJo's family consists of a mother, father, older sister, older
20 brother, and a dog named Bingo. BabyBus denies that any identified, alleged similarities between
21 JoJo and any other fictional character reach elements of the characters that are protectable in
22 copyright or constitute copyright infringement. Paragraph 27 also contains legal conclusions and
23 arguments to which no response is required; to the extent a response is required, BabyBus denies
24 the remaining allegations in this paragraph, including on the ground that they are vague.

25 28. BabyBus admits that JoJo's family is wholesome and idealistic, and assist in
26 instructing children in necessary life skills. BabyBus denies that any identified, alleged similarities
27 between JoJo and any other fictional character reach elements of the characters that are protectable
28 in copyright or constitute copyright infringement. Paragraph 28 also contains legal conclusions and

1 arguments to which no response is required; to the extent a response is required, BabyBus denies
2 the remaining allegations in this paragraph, including on the ground that they are vague.

3 29. BabyBus admits that stuffed animals are featured in Super JoJo works, including for
4 the purposes of teaching instructional lessons to children. BabyBus denies that any identified,
5 alleged similarities between JoJo and any other fictional character reach elements of the characters
6 that are protectable in copyright or constitute copyright infringement. Paragraph 29 also contains
7 legal conclusions and arguments to which no response is required; to the extent a response is
8 required, BabyBus denies the remaining allegations in this paragraph, including on the ground that
9 they are vague.

10 30. BabyBus admits that it operates the Super JoJo channels and owns the videos posted
11 on the channel. BabyBus denies that any identified, alleged similarities between Super JoJo
12 characters and any other fictional character reach elements of the characters that are protectable in
13 copyright or constitute copyright infringement. Paragraph 30 also contains legal conclusions and
14 arguments to which no response is required. To the extent a response is required, BabyBus denies
15 the allegations in this paragraph.

16 31. Paragraph 31 contains legal conclusions and arguments to which no response is
17 required. To the extent a response is required, BabyBus denies the allegations in this paragraph.

18 32. BabyBus admits that JoJo has been depicted as happy. BabyBus admits that JoJo
19 has been depicted with supportive siblings and parents. BabyBus denies that any identified, alleged
20 similarities between JoJo and any other fictional character reach elements of the characters that are
21 protectable in copyright or constitute copyright infringement. Paragraph 32 also contains legal
22 conclusions and arguments to which no response is required; to the extent a response is required,
23 BabyBus denies the remaining allegations in this paragraph, including on the ground that they are
24 vague.

25 33. Paragraph 33 contains legal conclusions and arguments to which no response is
26 required. To the extent a response is required, BabyBus denies the allegations in this paragraph.

27 34. BabyBus admits that there is a Super JoJo work entitled “The Boo Boo Song” and
28 that Exhibit 2 to the Complaint appears to reflect screenshots of the Super JoJo video with that title.

1 BabyBus admits that it did not contest partial summary judgment on the Six Conceded Videos with
2 respect to infringing the Seven Conceded Copyrights. BabyBus denies the allegation, or alleged
3 implication, that any identified, alleged similarities encompass copyright protectable elements.
4 Paragraph 34 also contains legal conclusions and arguments to which no response is required; to the
5 extent a response is required, BabyBus denies the remaining allegations in this paragraph.

6 35. BabyBus currently lacks knowledge or information sufficient to form a belief as to
7 the truth or falsity of the allegations contained in paragraph 35, and therefore denies them.

8 36. BabyBus admits that it published a video for Super JoJo entitled “The Boo Boo
9 Song.” BabyBus denies the remaining allegations in Paragraph 36.

10 37. BabyBus admits that it did not contest partial summary judgment on the Six
11 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. Paragraph 37
12 also contains legal conclusions and arguments to which no response is required. To the extent a
13 response is required, BabyBus denies the remainder of the allegations in this paragraph.

14 38. BabyBus admits that the screenshots in Paragraph 38 depict JoJo with a bruise on his
15 forehead, which is appropriately colored to reflect how a bruise naturally occurs in the context
16 human anatomy, including coloration that fades in intensity from the center of the bruise. BabyBus
17 admits that in the work depicted in the screenshots appearing in Paragraph 38, JoJo’s eyes are blue
18 in color, and JoJo’s mother wipes a tear away from one of JoJo’s eyes, while his other eye remains
19 open; and after that, JoJo’s mother kisses his head above a brightly colored bandage. BabyBus
20 admits that the subtitles for the screenshots appearing in Paragraph 38, which screenshots also
21 include JoJo, state “Mommy will help you” and “make your boo boo better.” BabyBus denies that
22 any identified, alleged similarities between JoJo and any other fictional character reach elements of
23 the characters that are protectable in copyright. Paragraph 38 also contains legal conclusions and
24 arguments to which no response is required. To the extent a response is required, BabyBus denies
25 the remaining allegations in this paragraph.

26 39. BabyBus admits that the screenshots in paragraph 39 depict JoJo’s sister wearing a
27 bright pink, purple, and light pink sneaker on her foot, and further depicts JoJo’s sister hitting her
28 foot against a solid, white surface. BabyBus admits that the screenshots in paragraph 39 further

1 depict JoJo's mother with red hair and wearing a green shirt, and depict JoJo's sister with brown
2 hair and wearing a blue dress with a white tee shirt underneath it. BabyBus admits that the
3 screenshots in paragraph 39 as depict JoJo's mother giving a "high-five" to JoJo's sister. BabyBus
4 denies that any identified, alleged similarities between JoJo and any other fictional character reach
5 elements of the characters that are protectable in copyright. Paragraph 39 also contains legal
6 conclusions and arguments to which no response is required; to the extent a response is required,
7 BabyBus denies the remaining allegations in this paragraph.

8 40. BabyBus admits that the screenshots in paragraph 40 depict JoJo's brother with
9 orange-hair and JoJo's mother with red hair. BabyBus admits that the screenshots in paragraph 40
10 further depict JoJo's mother kissing JoJo's brother as well as JoJo's brother inspecting a bandage
11 on his right arm. BabyBus denies that any identified, alleged similarities between JoJo and any
12 other fictional character reach elements of the characters that are protectable in copyright. Paragraph
13 40 also contains legal conclusions and arguments to which no response is required; to the extent a
14 response is required, BabyBus denies the remaining allegations in this paragraph.

15 41. BabyBus admits that the screenshots in paragraph 41 depict a bandaged JoJo, as well
16 as his orange haired brother and brown-haired sister, peering through a door. BabyBus admits that
17 the screenshots in paragraph 41 further depict one of the children placing a polka dotted red bandage
18 on the mother's hand, as well as JoJo kissing his mother alone on a blue couch with a blue pillow,
19 and with JoJo's siblings' bare heads in the foreground. BabyBus denies that any identified, alleged
20 similarities between JoJo and any other fictional character reach elements of the characters that are
21 protectable in copyright. Paragraph 41 also contains legal conclusions and arguments to which no
22 response is required; to the extent a response is required, BabyBus denies the remaining allegations
23 in this paragraph.

24 42. Paragraph 42 contains legal conclusions and arguments to which no response is
25 required. To the extent a response is required, BabyBus denies the allegations in this paragraph.

26 43. BabyBus admits that it did not contest partial summary judgment on the Six
27 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. Paragraph 43
28

1 also contains legal conclusions and arguments to which no response is required. To the extent a
2 response is required, BabyBus denies the remainder of the allegations in this paragraph.

3 44. BabyBus currently lacks knowledge or information sufficient to form a belief as to
4 the truth or falsity of the allegations contained in paragraph 44, and therefore denies them.

5 45. BabyBus admits the existence of a BabyBus work called “Yes Yes Vegetable Song.”
6 BabyBus admits that it did not contest partial summary judgment on the Six Conceded Videos with
7 respect to infringement of the Seven Conceded Copyrights. BabyBus otherwise denies that any
8 identified, alleged similarities between BabyBus’ works and any other works reach elements that
9 are protectable in copyright. Paragraph 45 also contains legal conclusions and arguments to which
10 no response is required; to the extent a response is required, BabyBus denies the remaining
11 allegations in this paragraph.

12 46. BabyBus admits that Exhibit 3 contains screenshots depicting a BabyBus work called
13 “Yes Yes Vegetables Song.” BabyBus admits that work includes peas and carrots, in that order.
14 BabyBus denies that any identified, alleged similarities between BabyBus’ works and any other
15 works reach elements that are protectable in copyright. Paragraph 46 also contains legal conclusions
16 and arguments to which no response is required; to the extent a response is required, BabyBus denies
17 the remaining allegations in this paragraph.

18 47. BabyBus admits that Exhibit 3 contains screenshots depicting the BabyBus work
19 called “Yes Yes Vegetables Song.” BabyBus admits that in that work JoJo’s mother offers JoJo
20 peas, which JoJo subsequently drops. BabyBus denies that any identified, alleged similarities
21 between BabyBus’ works and any other works reach elements that are protectable in copyright.
22 Paragraph 47 also contains legal conclusions and arguments to which no response is required; to the
23 extent a response is required, BabyBus denies the remaining allegations in this paragraph.

24 48. BabyBus admits that Exhibit 3 contains screenshots depicting the BabyBus work
25 called “Yes Yes Vegetables Song.” BabyBus admits that work depicts a stuffed lamb which is used
26 to encourage eating. BabyBus denies that any identified, alleged similarities between BabyBus’
27 works and any other works reach elements that are protectable in copyright. Paragraph 48 also
28

1 contains legal conclusions and arguments to which no response is required; to the extent a response
2 is required, BabyBus denies the remaining allegations in this paragraph.

3 49. BabyBus admits that Exhibit 3 contains screenshots depicting the BabyBus work
4 called “Yes Yes Vegetables Song.” BabyBus admits that work depicts JoJo eating vegetable by
5 himself, after which JoJo shows an empty bowl to his mother. BabyBus denies that any identified,
6 alleged similarities between BabyBus’ works and any other works reach elements that are
7 protectable in copyright. Paragraph 49 also contains legal conclusions and arguments to which no
8 response is required; to the extent a response is required, BabyBus denies the remaining allegations
9 in this paragraph.

10 50. BabyBus admits that Exhibit 3 contains screenshots depicting the BabyBus work
11 called “Yes Yes Vegetables Song.” BabyBus admits that in that work JoJo is depicted in a high
12 chair, looking up at his mother with an empty bowl, resting his hand on his protruding belly, and
13 then touching a stuffed sheep. BabyBus denies that any identified, alleged similarities between
14 BabyBus’ works and any other works reach elements that are protectable in copyright. Paragraph
15 50 also contains legal conclusions and arguments to which no response is required; to the extent a
16 response is required, BabyBus denies the allegations in this paragraph.

17 51. BabyBus admits that it did not contest partial summary judgment on the Six
18 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. Paragraph 51
19 also contains legal conclusions and arguments to which no response is required. To the extent a
20 response is required, BabyBus denies the remaining allegations in this paragraph.

21 52. BabyBus admits that it did not contest partial summary judgment on the Six
22 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. Paragraph 52
23 also contains legal conclusions and arguments to which no response is required. To the extent a
24 response is required, BabyBus denies the remaining allegations in this paragraph.

25 53. BabyBus admits that it did not contest partial summary judgment on the Six
26 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. Paragraph 53
27 also contains legal conclusions and arguments to which no response is required. To the extent a
28 response is required, BabyBus denies the remaining allegations in this paragraph.

1 54. BabyBus admits that it did not contest partial summary judgment on the Six
2 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. Paragraph 54
3 also contains legal conclusions and arguments to which no response is required. To the extent a
4 response is required, BabyBus denies the remaining allegations in this paragraph.

5 55. BabyBus admits that it did not contest partial summary judgment on the Six
6 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. The first
7 sentence of Paragraph 55 otherwise contains legal conclusions and arguments to which no response
8 is required; to the extent a response is required, BabyBus denies the allegations in this sentence.
9 BabyBus currently lacks knowledge or information sufficient to form a belief as to the truth or falsity
10 of the remaining allegations contained in paragraph 55, and therefore denies them.

11 56. Paragraph 56 contains legal conclusions and arguments to which no response is
12 required. To the extent a response is required, BabyBus denies the allegations in this paragraph.

13 57. Paragraph 57 contains legal conclusions and arguments to which no response is
14 required. To the extent a response is required, BabyBus denies the allegations in this paragraph.

15 58. BabyBus currently lacks knowledge or information sufficient to form a belief as to
16 the truth or falsity of the second sentence of the allegations contained in paragraph 58, and therefore
17 denies them. Paragraph 58 also contains legal conclusions and arguments to which no response is
18 required; to the extent a response is required, BabyBus denies the allegations in this paragraph.

19 59. BabyBus admits its “Rainbow Ice Cream – Colors Song” work had an associated
20 thumbnail image. BabyBus admits that it did not contest partial summary judgment on the Six
21 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. Paragraph 59
22 also contains legal conclusions and arguments to which no response is required; to the extent a
23 response is required, BabyBus denies the remaining allegations in this paragraph.

24 60. BabyBus admits that BabyBus (Fujian) Network Technology Co., Ltd. received a
25 letter from Moonbug’s counsel containing allegations by Moonbug concerning its copyrights and
26 BabyBus’ works. Paragraph 60 also contains legal conclusions and arguments to which no response
27 is required; to the extent a response is required, BabyBus denies the remaining allegations in this
28 paragraph.

1 61. BabyBus admits that it did not contest partial summary judgment on the Six
2 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. BabyBus
3 currently lacks knowledge or information sufficient to form a belief as to the truth or falsity of the
4 remaining allegations contained in paragraph 61, and therefore denies them. Paragraph 61 also
5 contains legal conclusions and arguments to which no response is required; to the extent a response
6 is required, BabyBus denies the remaining allegations in this paragraph.

7 62. BabyBus admits that it transmitted a message to Plaintiffs which stated that BabyBus
8 was “having an urgent meeting with [its] legal department on this issue to give a response ASAP.”
9 BabyBus denies the remaining allegations in Paragraph 62.

10 63. BabyBus admits that the videos identified Exhibit 8 to the Complaint were removed
11 from public view while BabyBus investigated Plaintiffs’ claims. BabyBus admits that it did not
12 contest partial summary judgment on the Six Conceded Videos with respect to infringement of the
13 Seven Conceded Copyrights. BabyBus denies the remaining allegations in Paragraph 63.

14 64. BabyBus currently lacks knowledge or information sufficient to form a belief as to
15 the truth or falsity of the allegations contained in paragraph 64, and therefore denies them.

16 65. BabyBus currently lacks knowledge or information sufficient to form a belief as to
17 the truth or falsity of the allegations contained in paragraph 65, and therefore denies them.

18 66. BabyBus admits that certain videos identified by Plaintiffs were removed from
19 public view while BabyBus investigated Plaintiffs claims, but denies that those removals indicated
20 any alleged infringement of any copyrights. BabyBus admits that it did not contest partial summary
21 judgment on the Six Conceded Videos with respect to infringement of the Seven Conceded
22 Copyrights. BabyBus otherwise expressly denies that it has infringed any of Plaintiffs’ alleged
23 copyrights. BabyBus denies the remaining allegations in Paragraph 66.

24 67. BabyBus admits that it did not contest partial summary judgment on the Six
25 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. BabyBus
26 otherwise denies the first sentence of Paragraph 67. BabyBus currently lacks knowledge or
27 information sufficient to form a belief as to the truth or falsity of the remaining allegations contained
28 in paragraph 67, and therefore denies them.

1 68. BabyBus admits that it did not contest partial summary judgment on the Six
2 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. BabyBus
3 otherwise expressly denies that it has infringed any of Plaintiffs' alleged copyrights. BabyBus
4 denies the remaining allegations in Paragraph 68.

5 69. BabyBus currently lacks knowledge or information sufficient to form a belief as to
6 the truth or falsity of the allegations contained in paragraph 69, and therefore denies them.

7 70. BabyBus denies that no Super JoJo channel has been terminated. BabyBus admits
8 that Plaintiffs previously triggered termination of a Super JoJo channel. BabyBus admits that it did
9 not contest partial summary judgment on the Six Conceded Videos with respect to infringement of
10 the Seven Conceded Copyrights. Paragraph 70 also contains legal conclusions and arguments to
11 which no response is required; to the extent a response is required, BabyBus denies the remaining
12 allegations in this paragraph.

13 71. BabyBus currently lacks knowledge or information sufficient to form a belief as to
14 the truth or falsity of the allegations contained in Paragraph 71, and therefore denies them.

15 72. BabyBus admits that, on or about August 11 and 12, 2021, BabyBus submitted
16 counter notifications for the four videos listed in Paragraph 72. BabyBus denies the remaining
17 allegations in Paragraph 72.

18 73. BabyBus admits that it did not contest partial summary judgment on the Six
19 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. BabyBus
20 otherwise denies that it has displayed or distributed any works that infringe any of Plaintiffs' alleged
21 copyrights. BabyBus denies the remaining allegations in Paragraph 73.

22 74. BabyBus admits that, on or around March 7, 2023, the Court granted in part and
23 denied in part Moonbug's motion for summary judgment with respect to infringement of the Seven
24 Conceded Copyrights. BabyBus admits that it did not contest partial summary judgment on the Six
25 Conceded Videos with respect to infringement of the Seven Conceded Copyrights, including any
26 corresponding compilations and foreign language versions, and that the Court granted partial
27 summary judgment on the Six Conceded Videos with respect to infringement of the Seven Conceded
28 Copyrights. Paragraph 74 also contains legal conclusions and arguments to which no response is

1 required; to the extent a response is required, BabyBus denies the remaining allegations in this
2 paragraph.

3 75. BabyBus admits that it did not contest partial summary judgment on the Six
4 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. BabyBus
5 currently lacks knowledge or information sufficient to form a belief as to the truth or falsity of the
6 allegations contained in Paragraph 75, and therefore denies them.

7 76. BabyBus admits that it did not contest partial summary judgment on the Six
8 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. BabyBus
9 currently lacks knowledge or information sufficient to form a belief as to the truth or falsity of the
10 allegations contained in Paragraph 76, and therefore denies them.

11 77. BabyBus admits that, on or around March 20, 2023, YouTube disabled the video.

12 78. BabyBus admits that, on or about March 20, 2023, Naiyong Yan mistakenly signed
13 a counter notification to reinstate the video. BabyBus denies the remaining allegations to the extent
14 they suggest that Mr. Yan acted with subjective bad faith and/or with actual knowledge that he was
15 making a misrepresentation at the time he signed the counter-notification because, among other
16 things, Moonbug has been engaged in a years-long campaign of sending erroneous, knowingly false,
17 and/or misleading DMCA takedown notices targeting BabyBus' YouTube channels and hundreds
18 of BabyBus videos, including at least seven YouTube takedown notices in November 2021 in
19 relation to 24 videos, such as *Super JoJo*'s "I Can Make Donuts" and "I Love My Mommy" songs,
20 for which Moonbug erroneously, falsely, knowingly, and/or misleadingly asserted that the grounds
21 for the takedown were the *Super JoJo* videos themselves, not any of Moonbug's videos, characters,
22 or other protectable elements. Paragraph 78 also contains legal conclusions and arguments to which
23 no response is required; to the extent a response is required, BabyBus denies the remaining
24 allegations in this paragraph.

25 79. BabyBus admits that YouTube restored the video for public viewing on or around
26 April 3, 2023.

27 80. BabyBus admits that it has submitted other counter notifications to YouTube
28 because, among other things, Moonbug has been engaged in a years-long campaign of sending

1 erroneous, knowingly false, and/or misleading DMCA takedown notices targeting BabyBus’
 2 YouTube channels and hundreds of BabyBus videos, including at least seven YouTube takedown
 3 notices in November 2021 in relation to 24 videos, such as *Super JoJo*’s “I Can Make Donuts” and
 4 “I Love My Mommy” songs, for which Moonbug erroneously, knowingly falsely, and/or
 5 misleadingly asserted that the grounds for the takedown were the *Super JoJo* videos themselves, not
 6 any of Moonbug’s videos, characters, or other protectable elements. BabyBus denies that those
 7 other counter notifications it submitted to YouTube were improperly submitted. BabyBus admits
 8 that it did not contest partial summary judgment on the Six Conceded Videos with respect to
 9 infringement of the Seven Conceded Copyrights. Paragraph 80 also contains legal conclusions and
 10 arguments to which no response is required; to the extent a response is required, BabyBus denies
 11 the remaining allegations in this paragraph.

12 81. BabyBus repeats and incorporates by reference, as if fully set forth herein, its
 13 responses to all of the allegations in the preceding paragraphs.

14 82. Paragraph 82 contains legal conclusions and arguments to which no response is
 15 required. To the extent a response is required, BabyBus denies the allegations in this paragraph.

16 83. BabyBus currently lacks knowledge or information sufficient to form a belief as to
 17 the truth or falsity of the allegations contained in paragraph 83, and therefore denies them.

18 84. Paragraph 84 contains legal conclusions and arguments to which no response is
 19 required. To the extent a response is required, BabyBus denies the allegations in this paragraph.

20 85. Paragraph 85 contains legal conclusions and arguments to which no response is
 21 required. To the extent a response is required, BabyBus denies the allegations in this paragraph.

22 86. BabyBus admits that it did not contest partial summary judgment on the Six
 23 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. Paragraph 86
 24 otherwise contains legal conclusions and arguments to which no response is required. To the extent
 25 a response is required, BabyBus denies the remaining allegations in this paragraph.

26 87. BabyBus admits that it did not contest partial summary judgment on the Six
 27 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. BabyBus admits
 28 that it has not acquired a license from Plaintiffs, because it did not need any such license. BabyBus

1 otherwise denies any implication that it needed a license from Plaintiffs. Paragraph 87 also contains
2 legal conclusions and arguments to which no response is required; to the extent a response is
3 required, BabyBus denies the remaining allegations in this paragraph.

4 88. BabyBus admits that it did not contest partial summary judgment on the Six
5 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. Paragraph 88
6 otherwise contains legal conclusions and arguments to which no response is required. To the extent
7 a response is required, BabyBus denies the remaining allegations in this paragraph.

8 89. BabyBus admits that it did not contest partial summary judgment on the Six
9 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. Paragraph 89
10 otherwise contains legal conclusions and arguments to which no response is required. To the extent
11 a response is required, BabyBus denies the remaining allegations in this paragraph.

12 90. Paragraph 90 contains legal conclusions and arguments to which no response is
13 required. To the extent a response is required, BabyBus denies the allegations in this paragraph.

14 91. BabyBus repeats and incorporates by reference, as if fully set forth herein, its
15 responses to all of the allegations in the preceding paragraphs.

16 92. BabyBus admits that it did not contest partial summary judgment on the Six
17 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. BabyBus
18 otherwise denies that it has displayed or distributed any works that infringe any of Plaintiffs' alleged
19 copyrights. BabyBus admits that it has submitted counter notifications to YouTube. BabyBus
20 admits that Naiyong Yan mistakenly signed one counter notification to YouTube; however,
21 BabyBus denies that Mr. Yan acted with subjective bad faith and/or with actual knowledge that he
22 was making a misrepresentation at the time he signed the counter-notification. Paragraph 92 also
23 contains legal conclusions and arguments to which no response is required; to the extent a response
24 is required, BabyBus denies the remaining allegations in this paragraph.

25 93. BabyBus admits that it did not contest partial summary judgment on the Six
26 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. BabyBus
27 otherwise denies that it has displayed or distributed any works that infringe any of Plaintiffs' alleged
28 copyrights. BabyBus admits that Naiyong Yan mistakenly signed one counter notification to

1 YouTube; however, BabyBus denies that Mr. Yan acted with subjective bad faith and/or with actual
2 knowledge that he was making a misrepresentation at the time he signed the counter-notification.
3 Paragraph 93 also contains legal conclusions and arguments to which no response is required; to the
4 extent a response is required, BabyBus denies the remaining allegations in this paragraph.

5 94. BabyBus admits that it did not contest partial summary judgment on the Six
6 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. BabyBus
7 otherwise denies that it has displayed or distributed any works that infringe any of Plaintiffs' alleged
8 copyrights. BabyBus admits that Naiyong Yan mistakenly signed one counter notification to
9 YouTube; however, BabyBus denies that Mr. Yan acted with subjective bad faith and/or with actual
10 knowledge that he was making a misrepresentation at the time he signed the counter-notification.
11 BabyBus further denies that it was readily apparent that the counter notice was erroneous at the time
12 it was signed, because, among other things, Moonbug has been engaged in a years-long campaign
13 of sending erroneous, false, and/or misleading DMCA takedown notices targeting BabyBus'
14 YouTube channels and hundreds of BabyBus videos, including at least seven YouTube takedown
15 notices in November 2021 in relation to 24 videos, such as *Super JoJo*'s "I Can Make Donuts" and
16 "I Love My Mommy" songs, for which Moonbug erroneously, knowingly falsely, and/or
17 misleadingly asserted that the grounds for the takedown were the *Super JoJo* videos themselves, not
18 any of Moonbug's videos, characters, or other protectable elements. BabyBus further denies that it
19 did "no investigation whatsoever" and did not "care" whether the counter notice was erroneous.
20 Paragraph 93 also contains legal conclusions and arguments to which no response is required; to the
21 extent a response is required, BabyBus denies the remaining allegations in this paragraph.

22 95. BabyBus admits that Naiyong Yan mistakenly signed one counter notification to
23 YouTube; however, BabyBus denies that Mr. Yan acted with subjective bad faith and/or with actual
24 knowledge that he was making a misrepresentation at the time he signed the counter-notification.
25 Paragraph 95 also contains legal conclusions and arguments to which no response is required; to the
26 extent a response is required, BabyBus denies the remaining allegations in this paragraph. BabyBus
27 currently lacks knowledge or information sufficient to form a belief as to the truth or falsity of the
28 remaining allegations contained in paragraph 95, and therefore denies them.

1 96. BabyBus denies that it has submitted any counter notification in response to any
2 Moonbug notification with subjective bad faith and/or with actual knowledge that BabyBus made a
3 misrepresentation at the time it signed the counter-notification. Paragraph 96 also contains legal
4 conclusions and arguments to which no response is required; to the extent a response is required,
5 BabyBus denies the remaining allegations in this paragraph.

6 97. BabyBus admits that it did not contest partial summary judgment on the Six
7 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. BabyBus
8 otherwise denies that it has displayed or distributed any works that infringe any of Plaintiffs' alleged
9 copyrights. Paragraph 97 contains legal conclusions and arguments to which no response is
10 required. To the extent a response is required, BabyBus denies the allegations in this paragraph.

11 98. BabyBus admits that it did not contest partial summary judgment on the Six
12 Conceded Videos with respect to infringement of the Seven Conceded Copyrights. BabyBus
13 otherwise denies that it has displayed or distributed any works that infringe any of Plaintiffs' alleged
14 copyrights. Paragraph 98 contains legal conclusions and arguments to which no response is
15 required. To the extent a response is required, BabyBus denies the allegations in this paragraph.

16 **AFFIRMATIVE DEFENSES**

17 BabyBus identifies the following affirmative defenses and reserves the right to raise
18 additional defenses based on further investigation in this case. BabyBus does not assume the burden
19 of proof on any issue, however characterized, on which it does not bear that burden. BabyBus
20 reserves all affirmative defenses not stated herein under Rule 8(c) of the Federal Rules of Civil
21 Procedure and any other defense at law or in equity that may now exist or in the future be available
22 based further investigation in this case.

23 1. The equitable relief Moonbug seeks is barred by the doctrine of laches, including
24 because Moonbug has unreasonably delayed in alleging copyright infringement. BabyBus first
25 created and published the DouDou character in or around 2016, which served as inspiration for the
26 drawings and 3-D Model that became JoJo in 2019. BabyBus began creating videos on YouTube
27 and other platforms full time in 2019 utilizing the JoJo character. Moonbug only asserted allegations
28 of copyright infringement, however, years later in or around June 2021 after BabyBus had filed its

1 IPO application materials with the Shenzhen Stock Exchange. As a result of Moonbug's
2 unreasonable delay in alleging copyright infringement, timed specifically to coincide with BabyBus'
3 announcement of its IPO, BabyBus' overall business has been threatened to a much greater degree
4 than if the copyright allegations or suit would have been filed in a reasonable time. Moonbug's
5 unreasonable delay in alleging copyright infringement, timed specifically to coincide with BabyBus'
6 announcement of its IPO, also appears to be designed to unreasonably increase the damages that
7 Moonbug seeks to claim.

8 2. Moonbug's failure to mitigate any alleged damages further bars its claims or limits
9 their recovery. BabyBus first created and published the DouDou character in or around 2016, which
10 served as inspiration for the drawings and 3-D Model that became JoJo in 2019. BabyBus began
11 creating videos on YouTube and other platforms full time in 2019 utilizing the JoJo character.
12 Moonbug only asserted allegations of copyright infringement, however, years later in or around
13 June 2021 after BabyBus had filed its IPO application materials to the Shenzhen Stock Exchange.
14 Moonbug's years-long delay before attempting to assert its alleged copyrights increased Moonbug's
15 alleged damages as it coincided with the growth of the BabyBus channel over that same period.
16 Moreover, as to Moonbug's claim under 17 U.S.C. § 512(f)(2), Moonbug failed to reply to
17 BabyBus' counter-notification submitted on March 20, 2023, even though BabyBus has routinely
18 done so in other instances. Moonbug also failed to alert BabyBus to the video at issue, despite
19 pleading that it knew of the video's existence at least by early March 2023, and despite representing
20 to BabyBus in mid-March 2023 that it would identify any videos concerning the Six Conceded
21 Videos with respect to the Seven Conceded Copyrights where Moonbug was aware of those videos.

22 3. Moonbug's claims are also barred by the doctrine of *de minimis* use. Moonbug's
23 allegations of similarities between its works and BabyBus' works are based on ideas and expressions
24 that are not protectable in copyright, including but not limited to, anatomical features of human
25 infants (*i.e.* large head, spare hair, large eyes), the composition of a traditional nuclear family as
26 found in family-friendly and children's media (*i.e.* two parents, three children, and a pet), and
27 abstract lessons learned by children while they grow up (*i.e.* eating vegetables, treating bruises, etc.).
28

1 To the extent that any similarities may extend to protectable content, the similarities are so minor,
2 and make up such a small feature of the works as to constitute *de minimis* use that is not actionable.

3 4. Moonbug's claims are also barred by the unclean hands doctrine. Moonbug has been
4 engaged in a years-long campaign of sending erroneous, knowingly false, and/or misleading DMCA
5 takedown notices targeting BabyBus' YouTube channels and hundreds of BabyBus videos. In
6 November 2021, for example, Moonbug submitted at least seven takedown notices in relation to 24
7 videos, including *Super JoJo*'s "I Can Make Donuts" and "I Love My Mommy" songs. When doing
8 so, Moonbug knowingly falsely and/or misleadingly asserted that the grounds for the takedown were
9 the *Super JoJo* videos themselves, not any of Moonbug's videos, characters, or other protectable
10 elements. Specifically, for each of those videos, Moonbug described the work it was purportedly
11 protecting by providing a link to a *Super JoJo* video, and Moonbug described the work it claimed
12 was infringing by providing a link to the same *Super JoJo* video. Moonbug has similarly continued
13 its campaign to eliminate BabyBus' videos from YouTube through its new and repetitive, knowingly
14 false, and/or misleading DMCA requests. For example, other takedown notices submitted by
15 Moonbug have been premised on other meritless claims and allegations, including claims for
16 infringement based on 3D animated renderings of a human baby based on the characteristics of
17 infants found in nature (i.e. large heads, large eyes, heads sparsely-covered with hair, etc.). Such
18 generic characteristics are found in nature and shared among countless, human babies, and
19 Moonbug's allegations cannot support a copyright claim. As this Court acknowledged in its order
20 denying in part Moonbug's summary judgment motion, "[s]imilarity only as to unprotected aspects
21 of a work does not result in liability for copyright infringement," Dkt. 242 at 9, and there is no
22 dispute that "many of the characters' shared elements, standing alone, are not protectable," *id.* at 20.

23 5. Furthermore, during the Court's February 2, 2023 hearing regarding the parties'
24 motions for summary judgment, Moonbug's counsel asserted to the Court that Moonbug was aware
25 of certain foreign language BabyBus channels that made available and displayed the Six Conceded
26 Videos with respect to the Seven Conceded Copyrights. On March 10, 2023, three days after the
27 Court issued its partial summary judgment ruling, BabyBus' counsel requested that Moonbug's
28 counsel provide any information Moonbug may have regarding any videos uploaded on any

1 BabyBus channel that contained any of the Six Conceded Videos with respect the Seven Conceded
2 Copyrights, including on any foreign language channel and any compilation videos, so that BabyBus
3 may investigate. On March 16, 2023, Moonbug's counsel agreed that where Moonbug was aware
4 of specific instances of any of the Six Conceded Videos with respect the Seven Conceded
5 Copyrights on any of BabyBus' channels, they would advise BabyBus' counsel of such instances.
6 Despite Moonbug's counsel's representations to the Court and to BabyBus' counsel, and despite
7 being aware of the video which forms the basis of Moonbug's claim under 17 U.S.C. 512(f)(2),
8 Moonbug never identified the video BabyBus in March 2023. Instead, on April 5, 2023, Moonbug
9 sought leave to amend their pleading to add a claim for copyright misrepresentation under 17 U.S.C.
10 § 512(f). On information and belief, Moonbug acted in bad faith and/or with fraudulent intent in
11 withholding its knowledge of the existence of the video at issue from BabyBus—despite its
12 representations otherwise—in an effort to manufacture Moonbug's copyright misrepresentation
13 claim. Moonbug's unclean hands therefore bar this claim.

14 **JURY DEMAND**

15 Pursuant to Federal Rule of Civil Procedure 38(b), BabyBus hereby demands trial by jury of
16 all issues properly triable thereby, including but not limited to all such issues raised in Moonbug's
17 Complaint.

1 DATED: May 23, 2023

QUINN EMANUEL URQUHART & SULLIVAN, LLP

2
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